

trustee under the Act of 1785, ch. 72, for the purpose of partition, or under the provision of the 5th section of the last-mentioned Act, where the personal estate is insufficient, that the real estate is not changed into personal until everything has been done to effect the mutation which the Court say is necessary for that purpose.

The question is not what form the thing has assumed when the Court is called upon to dispose of it. The rights of the parties do not depend upon whether it be then in fact money. In the case of *The State vs. Krebs*, the Court, speaking of the property of the wife in the hands of the commissioners, say, "It is in fact money, but the point of hesitancy is whether, in legal contemplation, it is to be so considered;" and the Court in that case held the mutation to be complete, and that the money was at the disposal of the husband, and liable for his debts, because everything necessary to consummate the transmutation had been done.

The counsel for the personal representatives of course do not deny that the conversion is not complete until the sale is finally ratified, and the terms complied with by the purchaser, but they insist that when this is done, "the ratification relates back and works a conversion from the day of sale." In other words, they maintain that the doctrine of relation applies to the case and carries with it the consequences for which they contend. It is true as they say that the Maryland cases do not explicitly decide this point, but I am far from thinking they reflect no light upon it. If the Court of Appeals had meant that upon the final ratification of the sale and compliance of the purchaser with the terms, the conversion should relate back to the day of sale so as to change the nature of the property from that period, it seems to me they would have said so. The Court, after much reflection, undertake to determine, and do determine, the acts which shall change the property from real to personal, and they say, *when* those acts are done, the change shall be complete. And it seems to me so reasonable that if they intended that the performance of the acts should work a change